HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26036 of 2001

Dated:24.08.2007

Between:

The Singareni Collieries Officers Co-operative House Building Society Limited, Saidabad.

…Petitioner.

and

Special Officer and Competent Authority and others.

…Respondents.

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ORDER:

The Singareni Colleries Officers Co-operative House Building Society Limited filed the present Writ Petition seeking a writ of mandamus directing the respondents not to lay roads or install electricity lines in the land admeasuring Acs.8.17 guntas in survey Nos.119, 120, 121 and 124 situated at Saidabad Village of Saroornagar Mandal in Ranga Reddy District. Petitioner-society was allotted an extent of 283150.70 (Acs.79.27 guntas) square meters of land in survey Nos.63, 65, 66, 119 to 121, 124, 126 to 136 and 145 to 147 of Saidabad Village, by orders of the Government in G.O.Ms.No.640, dated 18.04.1981. This land was originally purchased by petitioner-society from J.Pratap Singh and others under an agreement of sale, dated 03.11.1979. Petitioner-society was handed over possession of 280222.02 (Acs.61.23 guntas) square meters of land only. The balance of 31281.19 (Acs.8.17 guntas) square meters of land was not handed over by the first respondent. The land admeasuring Acs.8.17 guntas is statedly comprised in survey Nos.119, 120, 121 and 124. It is alleged that when the Government is taking necessary steps to hand over this land also, respondents 2 to 5 commenced the developmental work, like laying road and erecting electric polls, so as to enable the encroachers/land grabbers to occupy the land. Therefore, the present Writ Petition is filed.

The Additional Special Officer-I in the office of the first respondent filed a detailed counter-affidavit. The background of the case as revealed therein is as follows. Sri Jai Pratap Singh, Jagadish

Pratap Singh, T.K.Singh, Surya Pratap Singh, Ravi Pratap Singh, Shivmathi Devi, Rajmati Devi and Lakpathi Devi filed separate declarations under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). After processing, final orders under Section 8(4) of the Act were passed by the first respondent on 18.07.1980 declaring a total extent of 435684.68 square meters of land as surplus (apportioned among all the declarants proportionately). This land was allotted to petitioner-society. However, insofar as the deficiency area is concerned, Shanta Devi daughter of late J.Pratap Singh filed W.P.No.12542 of 1993 and by order, dated 28.10.2004, the order of the Special Officer was set aside and remanded for fresh consideration. Against the said judgment, the Special Officer preferred an appeal, being W.A.No.341 of 2005, and the orders of the learned single Judge were stayed. Therefore, the balance area of Acs.8.17 guntas could not be handed over. The counter-affidavit is served on the learned Counsel for the petitioner on 13.02.2007, but reply-affidavit is not filed.

Learned Counsel for the petitioner submits that when the Government approved the sale by the declarants in favour of petitioner-society and also allotted the land by G.O.Ms.No.640, the Government cannot be allowed to proceed with the developmental works to enable the land grabbers to occupy the land. **Opposing** the Writ Petition, learned Special Counsel for Urban Land Ceiling Cases submits that when the land itself is not handed over by the first respondent, petitioner–society cannot have any grievance to seek redremssal before this Court.

Even according to petitioner-society, out of an extent of Acs.79.27 guntas of land, which was directed to be allotted to it, an extent of 2,80,222.02 square meters of land was only handed over to it and the balance area of 31281.19 square meters was not handed over. Therefore, if there is any encroachment insofar as the land handed over to it is concerned, petitioner-society has to proceed against land grabbers before appropriate forum. In the guise of seeking a direction to respondents not to lay the road, it cannot pray for such relief in a writ petition. Insofar as the land, which is not handed over to it is concerned, even according to it, it has already filed a suit, being O.S.No.1104 of 1989, against the vendor. Nothing prevents petitioner-society to approach the respondents and place a copy of the decree and seek appropriate relief from the respondents themselves to protect the land. As the matter is pending before this Court in W.A.No.341 of 2005, the first respondent could not hand over the possession to petitioner-society, and therefore, it has to seek remedy before appropriate forum to protect the land, possession of which was allegedly handed over on paper.

In this Writ Petition, no direction can be granted to petitioner-society. The Writ Petition, with the above observation, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

24.08.2007

GJ